

**UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

<b>IN RE:</b>	§	
	§	
<b>BENTOLI, INC.</b>	§	<b>CASE NO. 23-10827-SMR</b>
	§	
	§	<b>CHAPTER 11</b>
<b>DEBTOR.</b>	§	

**SUB V TRUSTEE’S ADVISORY/RESPONSE TO MOTION TO OBTAIN CREDIT  
UNDER SECTION 364(b), RULE 4001(c) or (d) AND MOTION TO USE CASH  
COLLATERAL [ECF NO. 6] REGARDING ENHANCEMENT OF SUB V TRUSTEE’S  
DUTIES UNDER 11 U.S.C. § 1183(b)**

TO THE HONORABLE SHAD M. ROBINSON  
UNITED STATES BANKRUPTCY JUDGE:

NOW COMES, MICHAEL G. COLVARD, SUBCHAPTER V TRUSTEE (“Sub V Trustee”) in the above-numbered and styled bankruptcy case, and files this Advisory/Response to Motion to Obtain Credit Under Section 364(b), Rule 4001(c) or (d), and Motion to Use Cash Collateral [ECF No. 6] (the “Motion”), objections to Motion to Obtain Credit and Sub V Trustee’s advisory regarding Sub V Trustee’s enhanced duties under 11 U.S.C. § 1183(b) to investigate prepetition liens/transactions and relationship between Bentoli, Inc. (“Bentoli”) and Liminality Ventures LLC (“Liminality” and/or “Lender”), and would show as follows:

**I. Introduction**

1.1 On October 2, 2023 came on Debtor to file the Motion seeking us of cash collateral and post-petition credit from Lender.

1.2 A bankruptcy hearing was held on expedited basis seeking interim approval of the Motion set for October 5, 2023.

1.3 The Court entered an Interim Order Authorizing Use of Cash Collateral and

Extending Credit on October 10, 2023 [ECF No. 42], ruling in part that the United States Trustee (the “UST”), was to investigate the prepetition relationship between Debtor and Lender.

1.4 A final hearing on the Motion was set for October 19, 2023 whereupon certain creditors raised objections to the extension of credit and requested an opportunity to investigate prepetition liens, transactions and relationship between Debtor and Lender.

1.5 The Court took issues regarding the Motion and possible rights of investigation under advisement and set a hearing to announce its ruling on October 23, 2023 at 3:30 p.m.

1.6 Subsequent to the hearing the Sub V Trustee received communications from Debtor related to the Motion, inquiring whether the Sub V Trustee would consent to Debtor’s request for an enhancement of the Sub V Trustee’s duties under 11 U.S.C. § 1183(b), to include a duty to investigate prepetition liens, transactions and relationship between Debtor and Lender.

## **II. Arguments and Authorities**

2.1 11 U.S.C. § 1183(b) provides that the Trustee shall –

(1) perform duties specified in paragraphs (2), (5), (6), (7) and (9) of Section 704(a) of this title;

(2) perform the duties specified under paragraphs (3)(4) and (7) of 1106(a) of this title if the court for cause and upon the receipt of a party-in-interest. . . .so orders.

2.2 The Sub V Trustee will perform duties provided under 11 U.S.C. § 1183(b)(2) to the extent so ordered by the Court for cause.

2.3 Debtor asserts that cause for the Sub V Trustee to perform duties under 11 U.S.C. § 1183(b) is shown, following request by the Debtor made at the hearing on final approval of the Motion and in view of issues raised and objections provided by creditors at the hearing on October 19, 2023.

**Prayer**

WHEREFORE premise considered, Sub V Trustee submits this his advisory to the Court that upon being so ordered for cause the Sub V Trustee will perform such duties specified under 11 U.S.C. § 1106(a), as the Court directs, including duties to investigate acts, conduct, assets and liabilities and relationship loans, and encumbrances between Debtor and Lender as the Court so orders, and for such other and further relief as the Sub V Trustee may be justly entitled.

**MARTIN & DROUGHT, P.C.**

Weston Centre  
112 East Pecan Street, Suite 1616  
San Antonio, Texas 78205  
Telephone (210) 227-7591  
Facsimile (210) 227-7924  
E-Mail: mcolvard@mdtlaw.com

/s/Michael G. Colvard

By: \_\_\_\_\_

Michael G. Colvard  
State Bar No. 04629200

**SUBCHAPTER V TRUSTEE**

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing document was served electronically by the Court's Electronic Case Filing system, and by first-class U.S. Mail to Debtor's Attorney, Ronald J. Smeberg, The Smeberg Law Firm, PLLC, 4 Imperial Oaks, San Antonio, Texas 78248, and on the parties listed on the attached Service List on October 23, 2023.

/s/Michael G. Colvard

\_\_\_\_\_  
MICHAEL G. COLVARD